

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



September 24, 2003

Thu 8b

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO
KERI A. WEAVER, COASTAL PROGRAM ANALYST**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS MAJOR
LCP AMENDMENT NO. 1-03 (Grading Ordinance) (For Commission
Consideration and Possible Action at the Meeting of October 7-10,
2003)**

SYNOPSIS

The proposed LCP amendment was submitted on June 12, 2003 and was filed on June 20, 2003. A one-year time extension was granted on August 8, 2003. As such, the last date for Commission action on this item is August 21, 2004.

SUMMARY OF AMENDMENT REQUEST

The proposed amendment to the City's grading ordinance (Encinitas Municipal Code Chapter 23.24, Grading, Erosion and Sediment Control), which is part of the certified Implementation Program (IP) for the City's LCP, will incorporate certain requirements from the San Diego Regional Water Quality Control Board's (SDRWQCB) Order No. 2001-01. These regulations are intended to strengthen and refine already existing regulations for erosion controls and add requirements for structural and non-structural Best Management Practices (BMPs), with the long range goal of significantly improving the region's water quality. In addition to these substantive changes, a few terms in the existing ordinances are also modified or updated to be consistent with terms used in the new SDRWQCB order. The proposed revisions are intended to address the requirement of the Board's order related to construction activities, existing and future development, and redevelopment. No future amendment regarding the requirements of the SDRWQCB's Order is anticipated.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the proposed LCP amendment as submitted, and subsequent approval if modified.

The text changes to the grading ordinance are relatively minor in nature and will provide more protective standards to prevent erosion and reduce polluted stormwater runoff. The

proposed amendments do not create any inconsistencies with other sections of the IP or the LCP Land Use Plans (LUP). However, although the proposed amendment refers to the City's existing stormwater management ordinance (Chapter 20.08), and states that in order to meet the requirements of the grading ordinance, the requirements of the stormwater management ordinance must also be met, the City does not propose to incorporate the stormwater management ordinance into the City's certified LCP. Staff recommends that in order to ensure enforceability and consistency between the grading ordinance and the stormwater ordinance, the stormwater management ordinance and appendix be incorporated into the LCP.

The appropriate resolutions and motions begin on page 3. The suggested modifications begin on page 4. The findings for denial of the Implementation Plan Amendment as submitted begin on page 6. The findings for approval of the plan, if modified, begin on page 12.

BACKGROUND

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (both land use plan and implementing ordinances). The City accepted the suggested modifications and, on May 15, 1995, began issuing coastal development permits for those areas of the City within the Coastal Zone. The subject LCPA will be the eleventh amendment to the City's certified LCP.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from **Keri A. Weaver** at the San Diego Area Office of the Coastal Commission at 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402, (619) 767-2370.

PART I. OVERVIEW**A. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

B. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment for the City of Encinitas certified LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Encinitas certified LCP and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of the certified Land Use Plan (LUP). Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment for the City of Encinitas certified LCP if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Encinitas certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends that the following suggested revisions to the proposed LCP be adopted. The underlined sections represent language which the Commission suggests be added, and the ~~struck out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. The City's existing stormwater management ordinance (Encinitas Municipal Code Chapter 20.08) as amended herein, including "The City of Encinitas Storm Water Best Management Practices Manual," which is an appendix to Encinitas Municipal Code Chapter 20.08 as provided in subsection 20.08.100, shall be incorporated into the Implementation Plan of the City's Local Coastal Program.
2. Add the following language after subsection 20.08.230 of the stormwater management ordinance as subsection 20.08.240, and renumber the existing subsection 20.08.240 (Severability) as follows :

20.08.240 Amendment. An amendment to any portion of this Chapter constitutes a proposed amendment to the implementing regulations of the City's Local Coastal Program (LCP). A proposed LCP amendment shall comply in form, content and procedure with the provisions of Chapter 30.82 of the Municipal Code. An amendment to this Chapter shall not become effective until certified by the Coastal Commission pursuant to California Public Resources Code Section 30514.

~~20.08.24050~~ Severability. If any section, subsection, or part of this Chapter is declared invalid by a court of competent jurisdiction, the remaining provisions shall continue to be valid and enforceable so as to effectuate the purpose and intent of this ordinance.

3. In the revised grading ordinance (Encinitas Municipal Code Chapter 23.24), change incorrect reference to the stormwater management ordinance as Chapter 64.08, and replace with correct designation of Chapter 20.08, as follows:

23.24.230 - Permit Limitations and Conditions. All grading permits shall be subject to the following limitations and conditions: ...

C. Conditions of Approval. In granting any permit under this Code, the City Engineer may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or threat to public or private property. Such conditions may include, but shall not be limited to:

1. Improvements of any existing grading to bring it up to the standards of this Code;
2. Requirements for fencing of excavations of fills which would otherwise be hazardous.

It shall be a condition of every permit issued under this Chapter that the applicant shall comply with all the provisions of the City of Encinitas Watercourse Protection, Storm Water Management and Discharge Control Ordinance in Chapter ~~64.08~~ 20.08 of this Code. (Ord. 2002-03). ...

23.24.260 - Permit Denial and Revocation ...

F. 1 (a) ...

(e) Permittee fails to properly provide for wet season activity, as required by this Chapter, or fails to comply with all the provisions of the City of Encinitas Watercourse Protection, Storm Water Management and Discharge Control Ordinance in Chapter ~~64.08~~ 20.08 of this Code. ...

4. Revise subsection 30.82.010 (Local Coastal Program Amendment) of the Encinitas Municipal Code as follows:

30.82.010 Purpose. As part of the implementation of the City of Encinitas Local Coastal Program (LCP), the procedures contained in this Chapter provide for the processing of LCP amendments in a manner consistent with the provisions of the California Coastal Act. Amendments to any portion of the Municipal Code previously certified by the Coastal Commission as implementing regulations of the City's Local Coastal Program, including chapter 23.08 ("Design Review"), Chapter 20.08 ("Storm Water Runoff Control and Drainage"), Chapter 23.24

(“Grading, Erosion and Sediment Control”), Title 24 (“Subdivisions”), and Title 30 (“Zoning”), are subject to the provisions of this Chapter. ...

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF ENCINITAS LCP IMPLEMENTATION PLAN AMENDMENT #1-03, AS SUBMITTED, AND APPROVAL IF MODIFIED

A. AMENDMENT DESCRIPTION

The purpose of the amendment is to incorporate certain requirements of the San Diego Regional Water Quality Control Board’s (SDRWQCB) Order No. 2001-01 (Order) into the City’s grading ordinance (Encinitas Municipal Code Chapter 23.24, Grading, Erosion and Sediment Control), which is part of the certified Implementation Program (IP) for the City’s Local Coastal Program (LCP). This amendment from the City of Encinitas is part of a larger effort to improve water quality in the San Diego area. The revised grading ordinance language contained in this amendment was developed to comply with the requirements of the Order, which revises the National Pollution Discharge Elimination System (NPDES) Permit No. CAS0108758 and sets waste discharge requirements for discharges of urban runoff from the municipal separate storm sewer systems (MS4s) draining the watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District.

The Order’s requirements are intended to strengthen and refine already existing regulations for erosion controls and add requirements for structural and non-structural Best Management Practices (BMPs), with the long range goal of significantly improving the region’s water quality. In addition to these substantive changes, a few terms in the existing ordinances are also modified or updated to be consistent with terms used in the new SDRWQCB order.

The Order included findings regarding the effects of urban development and the impairments to water bodies, including the following:

“Urban runoff discharges from MS4s are a leading cause of receiving water quality impairment in the San Diego Region and throughout the United States. As runoff flows over urban areas, it picks up harmful pollutants such as pathogens, sediment (resulting from human activities), fertilizers, pesticides, heavy metals, and petroleum products. These pollutants often become dissolved or suspended in urban runoff and are conveyed and discharged to receiving waters, such as streams, lakes, lagoons, bays, and the ocean without treatment. Once in receiving waters, these pollutants harm aquatic life primarily through toxicity and habitat degradation. Furthermore, the pollutants can enter the food chain and may eventually enter the tissues of fish and humans.”

To address the widespread problem of urban runoff, the Order requires that all projects be evaluated for their potential impact to water quality, and that appropriate measures to reduce polluted runoff to the maximum extent practicable are implemented. The Order

requires that projects within certain development categories implement post-construction structural Best Management Practices. Also the Order requires that each Copermittee's General Plan (or equivalent plan) include:

“...water quality and watershed protection principles and policies to direct land-use decisions and require implementation of consistent water quality protection measures for development projects. As part of its Jurisdictional Urban Runoff Management Program document, each Copermittee shall provide a workplan with time schedule detailing any changes to its General Plan regarding water quality and watershed protection.”

The Order requires eighteen cities (including the City of Encinitas), the County of San Diego, and the San Diego Unified Port District (collectively known as Municipal Copermittees) to undertake certain actions including:

1. Prohibit non-storm water discharges into their respective MS4s (with certain exemptions);
2. Prohibit discharges of urban runoff containing pollutants which have not been reduced to the maximum extent practicable (MEP) into and from MS4s, including post-development runoff containing pollutants from new development or redevelopment;
3. Prohibit discharges from MS4s that cause or contribute to violations of water quality standards;
4. Establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means.
5. Implement, or require implementation of, best management practices to ensure that pollutant discharges into and from its MS4 are reduced to the MEP;
6. Take appropriate actions to reduce discharges of pollutants and runoff flow during each of the three major phases of urban development, i.e., the planning, construction, and existing development (or use) phases.

The Order requires each Copermittee to implement a Jurisdictional Urban Runoff Management Program (Jurisdictional URMP) that contains the components shown below:

Land-Use Planning for New Development and Redevelopment Component
Construction Component
Existing Development Component

- a. Municipal
- b. Industrial
- c. Commercial
- d. Residential

Education Component
Illicit Discharge Detection and Elimination Component

Public Participation Component
Assessment of Jurisdictional URMP Effectiveness Component
Fiscal Analysis Component

These components are intended to minimize the short and long-term impacts to water quality, and reduce pollutants from various land uses within the jurisdiction of the Copermittees. The Order details requirements for each of these components.

The Order requires that the Copermittees certify to the SDRWQCB that they have adequate legal authority to implement and enforce the requirements of the Order, including any new or updated urban runoff related ordinances. Additionally, the Copermittees must also show how they have implemented or upgraded ordinances within each of their jurisdictions to address runoff related specifically to construction activities and existing development. Other Copermittees, who have certified Local Coastal Programs, will similarly have to submit LCP amendments for Commission review and approval in order to comply with the SDRWQCB Order.

The Copermittees are also required to develop a model Standard Urban Storm Water Mitigation Plan (SUSMP), which shows how they will reduce pollutants and runoff flows from all new development and significant redevelopment projects falling within certain priority project categories. The model SUSMP, once approved by the SDRWQCB, will then have to be adopted and implemented by each Copermittee. The Order requires that projects within certain SUSMP development categories implement post-construction structural Best Management Practices. The provisions of these local SUSMPs will address applicable projects during the planning and development stages. The San Diego Copermittees have received approval from the SDRWQCB for their model SUSMP.

The specific amendments requested herein would amend the grading ordinance (Chapter 23.24) of the City's LCP Implementation Plan. The subject revisions to the ordinance refer to the existing stormwater management ordinance (EMC Chapter 20.08), which addresses stormwater management and discharge control, but currently is not a component of the certified LCP. The references require that every permit issued under the grading ordinance shall comply with all provisions of the stormwater management ordinance. The stormwater management ordinance also references the Best Management Practices Manual as an appendix to the subject chapter. The manual is also not currently part of the certified LCP.

B. PURPOSE AND INTENT OF ORDINANCE

The purpose of the grading ordinance is to protect the health, safety and welfare of persons, property and the environment by addressing slope stability, erosion control and water quality. The ordinance is attached in strikeout/underline form as Exhibit 1.

C. MAJOR PROVISIONS OF ORDINANCE

The grading ordinance contains a number of provisions, including the following:

- when regulations apply and permits are required
- grading within floodplains and environmentally sensitive lands
- erosion controls and liability

**D. ADEQUACY OF ORDINANCE TO IMPLEMENT CERTIFIED LUP/
DENIAL AS SUBMITTED**

The following goals and policies are part of the certified LUP, which is the standards of review for this ordinance, and are particularly relevant to the provision and protection of coastal resources and recreation facilities:

Resource Management Element:

Goal 10: The City will preserve the integrity, function, productivity, and long term viability of environmentally sensitive habitats throughout the City, including kelp-beds, ocean recreational areas, coastal water, beaches, lagoons and their uplands, riparian areas, coastal strand areas, coastal sage scrub and coastal mixed chaparral habitats. (Coastal Act 30230/30231/30240)

Policy 10.6: The City shall preserve and protect wetlands within the City's planning area. ... There shall be no net loss of wetland acreage or resource value as a result of land use or development ...

Policy 13.1: The City shall plan for types and patterns of development which minimize water pollution, air pollution, fire hazard, soil erosion, silting, slide damage, flooding and severe hillside cutting and scarring. (Coastal Act 30250)

Goal 14: The City shall stringently control erosion and sedimentation from land use and development to avoid environmental degradation of lagoons and other sensitive biological habitat, preserve public resources and avoid the costs of dealing with repair and sedimentation removal. (Coastal Act 30240/30250)

Policy 14.2: The City shall develop a comprehensive program to control sedimentation and erosion. (Coastal Act 30233/30240).

Policy 14.5: To minimize erosion and allow sedimentation control systems to work, no grading or vegetation removal shall be allowed to occur during the wet season, October 1- April 15, without all systems and devices per an approved erosion control plan and program being in place. During other times of the year such systems shall be provided and operative as required by a comprehensive City erosion control ordinance. No grading shall occur during the rainy season within the Special Study Overlay area, or in areas upland of sensitive areas including lagoons, floodplains, riparian or wetland habitat areas, unless by site-specific determination, the grading would not be occurring on

sensitive slopes, in floodplain areas or upland of floodplains, where sedimentation might occur in other sensitive habitat areas. Then, if grading is determined to be allowable, all necessary erosion control devices, including sedimentation basins, must be in place, and shall be monitored and maintained throughout the grading period. (Coastal Act/30251)

Policy 14.6: To achieve the ends of erosion control, a comprehensive erosion control plan shall be required with final building permit and improvement plans, subject to review and approval prior to commencement of grading and construction. (Coastal Act/30251)

The existing grading ordinance was previously certified as consistent with the City's certified LCP. The purpose of the grading ordinance is to provide guidance for grading activities that have the potential to cause erosion, degrade water quality and increase surface water runoff. Although the existing ordinance contains language that addresses non-point source pollution and stormwater standards, new language has been provided for greater specificity of grading requirements and to acknowledge the current status of best management practices (BMPs). The overall effect of the City's proposed modifications will be to strengthen the existing grading ordinance and provide additional resource protection consistent with the SDRWQCB stormwater runoff order and the Coastal Act.

The stormwater management ordinance is not currently part of the City's LCP. It is necessary to ensure that the grading ordinance will adequately address protection of coastal resources, that the grading ordinance remains consistent with the referenced stormwater management ordinance, and that both ordinances are adequately implemented within the coastal zone to ensure maximum protection of coastal resources. The City's proposed amendment to the grading ordinance is not sufficient to meet these requirements without incorporation of the stormwater management ordinance into the LCP. The grading ordinance, by requiring compliance with the stormwater management ordinance, is requiring compliance with an ordinance that has not been reviewed for consistency with the certified LUP.

As provided in the previously-listed policies of the City's Resource Management Element, which is part of the General Plan, the LUP requires a comprehensive erosion control program to prevent erosion and sedimentation from degrading lagoons and other sensitive biological habitat and preserve public resources. Both the grading ordinance and the stormwater management ordinance are necessary to create this comprehensive program. To ensure that the grading ordinance, including the cross-reference to the stormwater management ordinance, conforms with and is adequate to carry out the LUP, it is necessary to review the stormwater management ordinance for consistency with the LUP.

The stormwater management ordinance is designed to work with the grading ordinance for comprehensive management of sedimentation and runoff from existing development, construction activities, new development and redevelopment, and provide the maximum effectiveness and enforceability for development controls and protective measures. Additionally, the City's stormwater Best Management Practices (BMP) Manual (Exhibits

3 and 4) is an appendix to the existing stormwater management ordinance, as provided in subsection 20.08.100. The BMP Manual is intended to provide guidance for meeting the requirements of the City's urban runoff management program. Part II of the Manual, which addresses standards for new development and significant redevelopment, is particularly relevant to the subject LCP amendment.

Without incorporation of the stormwater management ordinance into the LCP, the LUP will not be adequately implemented. Additionally, to ensure that the stormwater ordinance continues to be consistent with the LUP in future, it is also necessary to require that changes to the stormwater management ordinance, including the BMP manual, be done through an LCP amendment. Depending upon the nature and significance of proposed changes, the Commission may be able to review certain changes as de minimis amendments.

E. FINDINGS FOR APPROVAL, IF MODIFIED

The proposed text changes to the grading ordinance are relatively minor in nature, will increase the protectiveness of existing requirements for erosion prevention and stormwater pollution control, and do not create any inconsistencies with other sections of the certified IP. However, because the City does not propose to incorporate the referenced stormwater management ordinance into the City's certified LCP, it is therefore necessary to include additional language in the City's proposed text revisions to ensure that the City's stormwater management ordinance will remain consistent with the grading ordinance and will be appropriately implemented within the coastal zone.

The purpose of the stormwater runoff and drainage regulations is to regulate drainage facilities, minimize both flood hazards and flood control facilities, minimize impacts to environmentally sensitive lands, implement federal and state regulations and protect the public health, safety and welfare. The ordinance is attached as Exhibit 2. The ordinance defines terms that relate to stormwater management and applicable regulations, and direct the City Engineer to develop a Best Management Practices manual as an appendix to that chapter, based upon priorities for implementation and enforcement. The BMP manual manual describes how to comply with the permanent improvement and construction phase stormwater requirements for development projects in the City of Encinitas, and guides project applicants through the selection, design, and incorporation of stormwater BMPs into design plans. The SDRWQCB has reviewed and approved the City's stormwater management ordinance and BMP manual, and the Commission's Water Quality Unit has also reviewed and is satisfied with them.

The previously-cited LUP policies of the City's Resource Management element apply to the stormwater management ordinance as well as the grading ordinance. Additional LUP goals and policies that are specifically applicable to water quality requirements include the following:

Resource Management Element

Goal 1: The City will conserve, protect and enhance the water resources in the Planning Area. (Coastal Act 30231)

Policy 1.2: Cooperate with the Federal, State and County governments and surrounding jurisdictions concerning the maintenance and improvement of water quality from local groundwater sources. (Coastal Act 30231)

Policy 2.3: To minimize harmful pollutants from entering the ocean environment from lagoons, streams, storm drains and other waterways containing potential contaminants, the City shall mandate the reduction or elimination of contaminants entering all such waterways; pursue measures to monitor the quality of such contaminated waterways, and pursue prosecution of intentional and grossly negligent polluters of such waterways. (Coastal Act 30230/30231/30233)

Subsection 20.08.030 of the existing stormwater ordinance defines and addresses stormwater discharges into “Environmentally Sensitive Areas,” which includes but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Resources Control; water bodies designated with the RARE beneficial use by the State Water Resources Control Board; areas designated as preserves or their equivalent under the Multiple Species Conservation Program; and any other similar environmentally sensitive areas which have been identified by the City Engineer. These areas will be identified as high priority areas for the maintenance of water quality. At minimum, the ESAs will include Batiquitos and San Elijo Lagoons and their tributaries. If the stormwater management ordinance is incorporated into the LCP, the ESA designation will add another layer of protection for sensitive coastal resources, but will not replace or weaken existing requirements for protecting environmentally sensitive habitat areas (ESHA) as defined in Sections 30107.5 and 30240 of the Coastal Act, and as provided in the City’s Resource Management Element of the General Plan.

Suggested Modification #1 is necessary to ensure that the stormwater management ordinance is incorporated into the LCP IP, and that an enforceable linkage exists between the two ordinances. Suggested Modification #2 provides that any change made to the stormwater ordinance shall be subject to Commission review for both individual and cumulative effect on the City’s overall, comprehensive program for erosion control and water quality protection. As provided in subsection 23.24.055 of the existing grading ordinance, an amendment to any portion of the grading ordinance constitutes an amendment to the implementation plan of the City’s LCP, and is not effective until certified by the Commission pursuant to California Public Resources Code Section 30514. This modification is necessary for consistency between the two ordinances.

Suggested Modification #2 corrects the title numbering of the stormwater management ordinance, as referenced in the grading ordinance, from Chapter 64.08 to Chapter 23.24. Suggested Modification #3 ensures that subsection 30.82.010 (Local Coastal Program Amendment) of the Encinitas Municipal Code, which addresses LCP amendments,

includes the stormwater management ordinance as part of the LCP IP and requires any amendments to the ordinance to be certified by the Commission before becoming effective.

Incorporation of the ordinance into the LCP Implementation Plan will provide greater assurance that the grading ordinance and the stormwater management ordinance will be implemented concurrently and in a consistent manner, that any changes to the ordinances (including the BMP Manual) will be reviewed for coastal zone impacts, and that necessary LCP updates address both stormwater and grading concerns. The amendments requested herein, if modified as suggested, will add to, broaden, and improve upon, the scope of the existing ordinance. Moreover, incorporation of the stormwater management ordinance will not lessen or weaken any aspect of the existing grading ordinance or other chapters of the City's municipal code. Therefore, the Commission finds that the proposed amendments to the grading ordinance are fully consistent with, and adequate to carry out, the certified City of Encinitas LUP policies. If the suggested modifications are incorporated, the grading ordinance and stormwater ordinance, including the BMP manual, will conform with and will be adequate to carry out the water quality policies of the certified LUP, and will ensure continuing protection of coastal resources.

PART V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or the LCP amendment, does conform with CEQA provisions. The LCP amendment as submitted does not ensure that the grading ordinance will be implemented in a manner consistent with the requirements of the Coastal Act. If the amendment is modified as suggested to ensure that the grading ordinance is implemented in compliance with the LCP and with the additional standards specified in the suggested modifications, the amendment will not result in any adverse impacts to the environment. The Commission finds that the proposed amendment, if modified as suggested, does conform to CEQA provisions. Therefore, the Commission finds that approval of the LCP amendment will not result in any significant unmitigated adverse environmental impacts.